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DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

**Departmental Instruction 401 (RM) 03**  
**RISK AND LIABILITY MANAGEMENT**

**401-1**

**BACKGROUND**

The Department of Behavioral Health and Developmental Services (DBHDS or department) shall provide high quality services in a recovery oriented and skill development environment that respects and promotes the dignity, rights, and full participation of individuals receiving services and the staff. Risk management (RM) is an integrated, system-wide, data-driven program to ensure the safety of individuals receiving services, employees, visitors, volunteers, contractors, and students through prevention, monitoring, early detection, evaluation, and control of risks. It is the intent of the DBHDS, through its risk management program, to enhance safety and to minimize the potential liability exposure and financial loss to the Commonwealth of Virginia.

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**PURPOSE**

The purpose of this departmental instruction (DI) is to establish requirements and guidance for a comprehensive and uniform system-wide risk management program. The program is intended to reduce, eliminate, correct, manage or control risk through the identification, investigation, analysis, and treatment of hazards that may result in harm to individuals receiving services, employees, visitors, volunteers, contractors, or students, and prevent losses to the Commonwealth.

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**DEFINITIONS**

The following definitions apply to this DI:

**CLAIM**

A demand for restitution made against a state facility or its agents, usually precipitated by an incident occurring within the facility. A claim may be asserted either orally or in writing. Tort claims pursuant to Code of Virginia must be made in writing.

**INCIDENT**

Any occurrence that is inconsistent with the routine care of an individual receiving services, employee, volunteer, visitor, contractor, student, or the routine operations of the agency or property that results in an actual or potential adverse outcome.

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<b>FACILITY INCIDENT REPORT</b>	A form (DBHDS 158, Attachment 1) used by department employees to notify their supervisors, facility risk managers, and other appropriate management of an incident that presents either actual or potential risk or liability. Facility Incident Report Forms (DBHDS 158) should be reported during the shift in which they occur, but no later than 48 hours.
<b>INCIDENT TRACKER</b>	A system-wide database used to track all incidents that occur to individuals receiving services in facilities operated by the department. All Facility Incident Report Forms (DBHDS 158) must be entered into this tracker by the witness of the incident or the Risk Manager. Incidents should be reported during the shift in which they occur, but no later than 48 hours.
<b>LIABILITY</b>	An obligation incurred because of an inappropriate or wrongful act, or the failure to act, as required within the scope of an employee's duty.
<b>RISK</b>	The possibility of, or exposure to, one or both of the following: <ol style="list-style-type: none"><li>1. Physical or emotional harm or injury to individuals, family members, employees, visitors, volunteers, contractors, students, or the community.</li><li>2. The loss of financial assets or damage to the reputation of DBHDS or the Commonwealth.</li></ol>
<b>RISK MANAGER</b>	The designated person responsible for coordinating, managing, and implementing a state facility's risk management program and activities.
<b>RISK THRESHOLD</b>	The amount of risk the facility is willing to accept.
<b>RISK TRIGGER</b>	An event or condition that causes a risk to occur. Risk triggers are identified in advance as part of the facility's risk management program.
<b>ROOT CAUSE ANALYSIS (RCA)</b>	This is a method of problem solving designed to identify the underlying causes of a problem. The focus of a RCA is on systems, processes, and outcomes that require change to reduce the risk of harm. It does not focus on people. While the process involves analyzing who did what, it is for purposes of looking for systems and process problems, not personnel problems.
<b>SENTINEL EVENT</b>	A sentinel event is defined by American healthcare accreditation organization The Joint Commission (TJC) as any unanticipated event in a healthcare setting resulting in death or serious physical or psychological injury to a patient or patients, not related to the natural course of the patient's illness.

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Sentinel events signal the need for immediate investigation and response. These events specifically include loss of a limb or gross motor function and any event for which a recurrence would carry a risk of a serious adverse outcome.

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**SUSPICIOUS INJURY**

An injury to an individual receiving services that leads to an inference of abuse or neglect because of the shape, type, location, pattern, severity, or frequency of the injury or other circumstances.

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**UNEXPLAINED INJURY**

An injury to an individual receiving services that is discovered after an unwitnessed event where, upon initial discovery, the surrounding facts and circumstances provide no apparent reasonable or logical explanation sufficient to determine its cause.

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**RESPONSIBLE AUTHORITY**

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**CENTRAL OFFICE  
(CO)**

The DBHDS Risk Manager is responsible for:

- Interpreting this DI;
- Collaborating with facility risk managers to maintain, improve, update the Incident Tracker, provide documentation to facilities related to guidance from regulatory bodies, and to update the DI every two years.
- Developing and maintaining departmental risk management procedures and guidelines;
- Overseeing and monitoring the implementation of facility risk management programs, which include reviewing facility policies developed pursuant to this DI;
- Meeting with the facility risk managers on a quarterly basis either in person, video or conference call;
- Reporting system-wide trend data monthly to the DBHDS Facility Operations Specialist and the Risk Management Quality Committee; and
- Conducting a review of 12 random incidents per quarter, one from each facility, to ensure that all information is being documented and reviewed according to this DI consistently at all facilities. The review would include guidance to the facility if corrections are necessary and monitoring to ensure any corrective actions are implemented.

Deputy commissioners and assistant commissioners who are responsible for state facility operations, in collaboration with the DBHDS Risk Manager, are responsible for ensuring facility compliance with recommended operational risk reduction strategies.

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**FACILITIES**

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Each facility director is responsible for:

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- Ensuring that policies and procedures are developed to provide for establishment of a committee designated to address safety issues, pursuant to § 8.01-581.17 of the Code of Virginia;
  - Ensuring the risk management program is formally addressed through designated committees, specifically risk management, safety, quality management, patient safety, compliance and performance improvement.
  - Implementing a comprehensive and integrated risk management program managed by a facility risk manager who is qualified by training and/or experience;
  - Maintaining written documentation of designation as the risk manager in the facility risk manager's Employee Work Profile ;
  - Incorporating the requirements of this DI into the risk manager's Employee Work Profile;
  - Taking immediate, expedient, and appropriate actions to identify and minimize or eliminate the adverse impact of liability exposures;
  - Ensuring that all sentinel events are reported to TJC, a root cause analysis is conducted and results are sent to the DBHDS Risk Manager;
  - Ensuring that all incident reports are aggregated, reviewed, and analyzed, and facility patterns and trends are identified and reported monthly to the facility Risk Management Quality Committee and other appropriate committees;
  - Developing and implementing risk reduction plans based on event and incident analyses;
  - Routinely reviewing and analyzing facility claims and losses;
  - Assuring that the facility risk manager is actively involved in the assessment of all facility liability exposures; and
  - Addressing and implementing as deemed appropriate all corrective actions plans and risk reduction strategies recommended by the facility risk manager and the Risk Management Quality Committee.
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**FACILITY RISK  
MANAGERS**

The facility risk manager is responsible for:

- Developing, coordinating, and administering an interdisciplinary facility-wide risk management program;
  - Collaborating with key individuals at all levels of the facility to develop, improve, update, or enhance a risk management program and plan;
  - Utilizing risk triggers and thresholds to identify and address risks of harm and including these in the risk management program;
  - Ensuring that all incidents are reported during the shift in which they occur, but no later than 48 hours, in the Incident Tracker or on the Incident Report Form (DBHDS 158), if the Incident Tracker is not available;
  - Ensuring all incidents that are reported via the Incident Tracker or the Facility Incident Report Form (DBHDS 158) are reviewed and assigned appropriate clinical severity levels and risk index codes. Necessary steps should be taken to ensure appropriate investigations, corrective actions, and follow-up reviews are conducted on all incidents assigned with a severity
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level of four or higher or any incidents that the facility risk manager or facility director deems should be investigated regardless of the assigned clinical severity level or risk index code. The facility risk manager will ensure that all corrective actions are monitored and implemented.

- Ensuring that a root cause analysis is completed for all sentinel events; depending on severity, where a pattern of patient harm or undesired outcomes occurs; or when recommended by the facility director. The facility risk manager will also ensure all the corrective actions are monitored and implemented.
- Ensuring that all hard copy Facility Incident Report Forms (DBHDS 158) are maintained in a confidential and secure location for retention in accordance with the Commonwealth of Virginia record retention law (Library of Virginia Records Retention and Disposition Specific Schedule No. 720-001);
- Providing information on reported or reportable incidents and other risk-related issues to the committees designated to address safety issues, and recommending and monitoring the implementation of risk reduction strategies to appropriate committees;
- Communicating with the facility abuse and neglect investigator on abuse and neglect matters to identify and manage systemic risk and liability issues; and
- Developing and implementing a facility-wide staff education program for loss prevention and loss control, including a comprehensive orientation to inform employees, volunteers, contractors, and students who will be assigned direct care responsibilities of their obligations, responsibilities, protections, and role in the facility's risk management program.

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**PRIVILEGED  
COMMITTEE  
ACTIVITIES AND  
COMMUNICATIONS**

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#### **SPECIFIC GUIDANCE**

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Each facility shall establish a committee or committees as needed to protect privileged risk management activities and communications.

Each facility risk manager shall serve as an ex officio member of any facility committee established to focus on facility risk and liability issues and that functions primarily to review, evaluate, or make recommendations on issues such as the:

- Duration of patient stays;
  - Necessity of medical, dental, psychological, podiatric, chiropractic, optometric, or other professional services that are provided to individuals receiving services;
  - Most efficient use of available facilities, services, and staff resources;
  - Adequacy or quality of professional services;
  - Professional staff competency and qualifications;
  - Reasonableness or appropriateness of legal charges made on behalf of the facilities; and
  - Safety of individuals receiving services, employees, visitors, volunteers, contractors, and students.
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As a member of any such committee, the facility risk manager shall take all appropriate steps to maintain the privileged character of information in accordance with § 8.01-581.17 of the Code of Virginia.

The commissioner, deputy commissioner or assistant commissioners responsible for state facility operations; DBHDS Risk Manager; and DBHDS Chief Clinical Officer shall serve as ex-officio members of the above-referenced facility committees.

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**PROGRAM  
COORDINATION**

The facility risk management program shall maintain interrelationships with key facility departments and functions including: senior management, financial and contracting services, medical and clinical services (including privileging and credentialing), abuse investigations, quality management, human rights, safety and security, medical records, infection control, and human resources.

The facility risk management program must have in place processes that provide for coordination with internal facility divisions and offices in addition to external agencies and organizations (e.g., U.S. Department of Labor Occupational Safety and Health Administration, appropriate boards within the Virginia Department of Health Professions, Virginia State Police, and local law enforcement). All incidents involving sexual assault will be reported to law enforcement.

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**CLAIMS  
MANAGEMENT**

The facility risk manager should coordinate with the Division of Risk Management in the Virginia Department of Treasury (TRS) as it relates to management of potential and actual professional liability and malpractice claims. The role of the Virginia Office of the Attorney General (OAG) is to monitor claims filed against DBHDS or its staff under the medical malpractice self-insurance program and to defend medical malpractice claims or suits against the Commonwealth and its employees. Therefore, the facility risk manager shall:

- Work collaboratively with TRS Division of Risk Management and OAG in the management of claims and litigation;
  - Develop summaries of liability issues raised during claims settlement and litigation;
  - Develop strategies to prevent or minimize recurrences of the same or similar claims; and
  - Notify the DBHDS Risk Manager of any reported claims or possible claims.
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**PROCEDURES – GENERAL**

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**MANDATORY  
REQUIREMENTS FOR  
ALL PERSONNEL TO  
REPORT**

Any employee, volunteer, contractor, or student who witnesses or discovers any incident that causes or has the potential to cause harm or injury to an individual or any incident that poses risks or liability to the organization or facility, shall immediately complete, date, and sign a Facility Incident Report Form (DBHDS 158) and submit the report to his immediate supervisor or staff person in charge.

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Employees shall enter this information into the Incident Tracker as mandated by the facility.

The Facility Incident Report Form (DBHDS 158) is the only paper form to be used when reporting incidents that present actual or potential risk or liabilities. All changes to this form must be reviewed by the DBHDS Risk Manager prior to implementation.

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**RM PLAN AND  
REVIEW**

Each facility shall develop a written risk management plan consistent with this DI that outlines:

- The facility's comprehensive risk management program, including its goals and objectives;
- Essential program components, activities, and responsibilities;
- Analysis and reporting of trends and implementation of risk reduction plans based on this analysis;
- Utilization of risk triggers and thresholds to identify and address risks of harm;
- Processes for developing and implementing plans of correction for identified risks; and
- Integration of the risk management program within key divisions and functions.

The risk management plan will be reviewed and updated annually by the facility. The plan shall be submitted annually to the DBHDS Risk Manager.

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**RM OPERATIONS  
DOCUMENTS**

The facility risk manager shall maintain in paper or electronic format or have electronic access to the following information:

- Relevant Commonwealth of Virginia risk management plans developed in accordance with § 2.2-1839 of the Code of Virginia by TRS;
  - Reference list of risk management-related DIs, memoranda, and guidelines;
  - Facility risk management-related policies, procedures, and protocols;
  - Facility risk management plan;
  - Facility annual risk management evaluations;
  - Risk manager's Employee Work Profile consistent with this DI;
  - Other information, as appropriate (e.g., DBHDS Human Rights Regulations [12 VAC35-115], laws relevant to the care of individuals receiving services, operations, employment, current literature on risk management topics, etc.); and
  - Incident management procedures in the absence of the risk manager.
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**RISK IDENTIFICATION  
AND ASSESSMENT  
SYSTEM**

Each facility's risk management program, as described in the facility risk management plan, shall include the following:

1. An incident and incident management protocol to provide for:
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- Reporting all deaths, allegations of abuse or neglect, incidents as defined in this DI, and critical events as required by state law, regulations, accreditation requirements, and policies, including this DI; and
  - Responses to and review of all incidents.
2. A proactive risk identification and assessment process to reduce the likelihood or mitigate the impact of incidents that have the potential to result in injury, accident, or other loss to individuals receiving services, employees, visitors, volunteers, contractors, students, or assets. This shall include:
- A proactive process to evaluate the potential adverse impact of direct and indirect care processes, the physical plant, equipment, and other systems on health and safety; and
  - Coordination with the facility safety department to ensure routine assessments of the physical environment and high-risk areas are completed, in addition to periodic reviews of facility policies and procedures for risk identification purposes.

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#### **PROCEDURES - ASSIGNMENT OF INCIDENT OUTCOME SEVERITY AND RISK INDICES**

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##### **CLINICAL OUTCOME SEVERITY LEVEL**

The facility risk manager or designee shall assign one of the following clinical outcome severity levels to each incident:

00 = No injury occurred.

01 = Minor injury occurred; no specific area of the body required any special attention; no medical treatment by a physician or physician extender required; possibly first aid administered, but no increased monitoring of the individual is required.

02 = Moderate injury occurred involving a relatively small or minor area of the body; no medical treatment beyond first aid by a physician or physician extender (e.g., physician's assistant or nurse practitioner) required; possibly first aid administered; increased monitoring warranted, no ultimate harm or loss of bodily function(s). Injuries in this category are distinguished from those in category 01 in that all injuries here require some increased monitoring, but no medical treatment as described below.

03 = Injury requiring medical treatment beyond first aid (no hospitalization) by a physician or physician extender; possible temporary loss of bodily function(s); includes loss of consciousness. The injury received requires treatment of the individual by a licensed physician, podiatrist, dentist, or physician extender, but the treatment required is not serious enough to warrant or require hospitalization. The treatment may be provided within the facility or provided outside the facility where it may range from treatment at a doctor's private office through treatment at the emergency room of a general acute care hospital.

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- 04 = Injury or loss of consciousness requiring hospitalization; possible temporary loss of bodily function; possible major or permanent loss of bodily function(s). The injury received requires medical treatment in addition to care of the injured individual at a general acute care hospital. Regardless of the length of stay, this severity level requires the injured individual be formally admitted as an inpatient to the hospital and assigned to a bed on a unit outside of the emergency room.
- 05 = Injury received was so severe it resulted in death, or complications from the injury led to death of the individual.
- 06 = Deaths involving no injury.
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**RISK INDEX**

The facility risk manager shall assess the risk and liability associated with each incident and assign it one of the following index codes:

N = No risk or liability identified.

L = Low or minor risk or liability. The event has little or no impact or requires comparatively little attention or concern.

M = Moderate or some risk or liability. The event has reasonably manageable risks or requires minimal reduction or preventive efforts.

H = High or significant risk or liability. These events include:

- Incidents with actual, or the potential for high levels of public scrutiny;
- Incidents where claims are anticipated, threatened or initiated;
- Incidents involving criminal activity;
- Deaths with a clinical outcome severity level of 05;
- All suspicious unexplained injuries, regardless of clinical outcome severity level; or
- Incidents of any clinical outcome severity level where historical data on that individual indicates a trend suggesting a high-risk impact.

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**PROCEDURES - INCIDENT REPORTING AND INITIAL REVIEW**

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The following procedures shall be used to review and report all incidents:

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**STEP# 1 INITIAL  
REPORT**

Any employee, volunteer, contractor, or student who is involved in, witnesses, or receives a report of an incident that causes or has the potential to cause harm or injury to any individual or an incident that poses risks or liabilities to the agency or the Commonwealth, shall enter the incident in the Incident Tracker as determined by the facility or complete, date, and sign a Facility Incident Report Form (DBHDS 158), and submit the report to his immediate supervisor, unit manager or staff person in charge if not entered into the Incident Tracker by the employee.

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The content of the original incident report as submitted by the originating employee, volunteer, contractor, or student shall not be altered or edited in any manner except by the risk manager who may write an addendum on the form to clarify or update the incident. Any such addendum must be signed and dated by the risk manager.

All incidents shall be reported regardless of whether they occurred:

- In the facility or away from the facility;
- With or without staff present; or
- While the individual receiving services was on authorized leave, missing, or on special hospitalization.

Incident reports shall include only factual information, such as when the incident took place, what was observed, who was involved, and other relevant facts. Assumptions, conclusions, and irrelevant facts shall not be included in the report.

No copies or distribution shall be made of the original incident report unless otherwise permitted by this DI or the facility's policy, which must conform to this DI.

The Incident Report Form (DBHDS 158) shall not be filed in the clinical record.

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**STEP #2 REVIEW OF  
INCIDENTS BY  
SUPERVISOR**

**Review of Incidents.**

The employee shall enter the incident report in the Incident Tracker or, if using Incident Report Form (DBHDS 158), submit the form to his immediate supervisor, unit manager or the designated staff person.

The supervisor or designated staff person in charge who receives the incident via the Incident Tracker or via the Incident Report Form (DBHDS 158) shall review the report for clarity, legibility, and completeness and forward it to the risk manager as soon as possible, but no later than 24 hours from occurrence or discovery of the incident. If the employee or supervisor enters the incident in the Incident Tracker it does not need to be sent to the risk manager.

Documentation that is not to be included in the incident report should be recorded separately and maintained appropriately for the purpose of assisting with individual treatment needs and related investigations.

When an injury is involved and no cause of injury is immediately evident, the supervisor or staff person in charge shall attempt to ascertain the incident associated with the injury, making note any information, and then sign and date this note on the supervisor's line of the report, if submitting paper copies.

**Review of Unexplained Injuries.**

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If an incident cannot be associated with an injury, the supervisor, person in charge, or the employee that becomes or is made aware of the unexplained injury shall note that the injury is unexplained and shall immediately:

- Report the unexplained injury to the facility director, per facility policy, external agencies, and applicable law or regulation.
  - Determine and ensure documentation of the:
    - Type of injury;
    - Shape of the injury;
    - Location of the injury;
    - Apparent clinical outcome of the injury;
    - Ability or probability of the individual self-inflicting the injury; and
    - Frequency or apparent pattern or patterns associated with the injury, including any pattern of injuries suffered by one or more individuals on the same shift or living unit over a period of time.
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**STEP #3 REVIEW BY  
RISK MANAGER**

All incidents.

The facility risk manager shall ensure:

- A clinical outcome severity level and risk index code is assigned to the incident; and
- The incident data, including clinical outcome severity level and risk index code, is entered into the Incident Tracker.

If the injury appears to meet the definition of a suspicious injury, the risk manager shall ensure that the injury is reported to the facility director.

Incidents with clinical outcome severity levels 03 through 06: The facility risk manager shall enter the incident in the DBHDS PAIRS database or report the incident by email or fax to the disAbility Law Center of Virginia (dLCV) within 48 hours of discovery.

Incidents with clinical outcome severity levels 05 and 06: The risk manager shall take steps necessary to ensure the facility conducts the appropriate reviews. All deaths shall be reported to the local medical examiner. Additionally, deaths related to the use of restraint and seclusion shall be reported to the Centers for Medicare and Medicaid Services (CMS) and TJC, as required by regulations. The risk manager may also determine if a RCA or a Plan-Do-Study-Act (PDSA) review should be conducted or recommend that one be conducted to the facility director, as noted in 401-4. An RCA should always be conducted when a sentinel event occurs

Incidents with clinical outcome severity levels 04 through 06 and any other event with an assigned a risk index of "H.": The risk manager shall assess the need to recommend or initiate a RCA and quality improvement plan. The RCA should be conducted by soliciting, and including feedback from, staff who have input into the treatment of individuals receiving services and operational system

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issues impacting or impacted by the event. If a RCA is completed, it shall be sent to the DBHDS Risk Manager.

Incidents not reported to dLCV that have a risk index of "H:" The risk manager shall notify the DBHDS Risk Manager, who will notify staff in the DBHDS Office of Facility Operations in CO.

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**ADDITIONAL REVIEWS**

The risk manager shall initiate, or confirm that appropriate staff have taken, steps to implement additional reviews and reporting for all incidents, when necessary, including:

- Medical consultation or peer review;
- Medication review;
- Safety Committee review; and
- Reporting pursuant to TJC Sentinel Event Policy, OSHA, and Safe Medical Devices Act (SMDA) guidelines, and other applicable laws and regulations.

Refer to Attachment 2, "Algorithm for Review and Follow-up of Death and Injuries in DBHDS Facilities," which describes the process that is explained in this section.

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**PROCEDURES: REPORTING TO dLCV**

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**REQUIREMENT**

Pursuant to §§ 37.2-304.7 and 37.2-707 of the Code of Virginia, certain incidents involving individuals receiving services shall be reported to dLCV within 48 hours of occurrence or, if the time of occurrence is unknown, within 48 hours of discovery of the event.

Additionally, any known death within 21 days of discharge shall be reported to dLCV within 48 hours of discovery of the death.

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**REPORTING TO dLCV**

The risk manager, through the facility director, shall report an incident to dLCV when:

- There is an injury to an individual receiving services with an outcome severity level of 03 or 04 associated with or reasonably believed to be associated with the incident AND an assessment was made by a physician or physician extender, AND a physician or physician extender took action or gave an order in response to the injury that was more than first aid treatment and intended to affect a cure or provide therapy for the injury;
- There is an allegation of sexual abuse or sexual assault or rape;
- There is any event involving a loss of consciousness; and
- There is a death (05 or 06).

When there is no action or order by a physician or physician extender following an initial assessment of the individual who received an injury with an outcome

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severity level of 03 or 04, but at a later time an action is taken or an order is given in response to the same incident or occurrence, the risk manager, through the facility director, shall report the injury to dLCV within 48 hours of the action or order. The comments shall include when the initial incident was entered in PAIRS.

This report should provide a chronology of good faith efforts the facility took to address the complaint or observation of the injury prior to the discovery date indicated on the report.

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**REPORTING VIA  
PAIRS**

The risk manager, on behalf of the facility director, shall report incidents meeting the above criteria via the PAIRS system within 48 hours of the incident or discovery of the incident, and shall provide a 15 day follow-up report.

Should access to the PAIRS system be unavailable, a report must be emailed or faxed to dLCV and emails sent to the others on the email distribution list. Reports emailed or faxed to dLCV must be entered into the PAIRS system as soon as possible after the system becomes available (see Attachment 3, dLCV 48 Hour Faxed Report).

All emails shall be encrypted when sending information to dLCV.

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**NOTIFICATION OF  
INCIDENTS  
REPORTED TO  
dLCV**

When medical treatment for an injury rises to a level beyond first aid, the authorized representative, if applicable, shall be notified of any incident reported to dLCV as soon as practical following the incident.

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**PROCEDURES - RECEIPT AND HANDLING OF LEGAL DOCUMENTS**

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**LEGAL DOCUMENTS**

The following documents require immediate attention. Whenever any DBHDS employee receives one of the following documents that involves DBHDS, the Commonwealth, or an employee acting in an official capacity or in the scope of his employment, the employee shall immediately notify the facility risk manager, facility director, or DBHDS Risk Manager in person, by email, or by phone:

- Letters of attorney representation and letters from attorneys;
- Subpoenas for documents or witnesses (summons and interrogatories, but not for medical records);
- Notices of claim or suit;
- Motions for judgment, complaints, or bills of complaint; and
- Other related case or court documents.

Upon receipt of any of the above documents, the risk manager shall notify the facility director or designee.

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Upon receipt of a notice of claim or suit, the risk manager shall notify the following by telephone or email:

- Appropriate TRS Division of Risk Management personnel;
- OAG; and
- DBHDS Risk Manager.

When notified by the risk manager of receipt of a notice of claim or suit, the DBHDS Risk Manager shall notify the commissioner and the appropriate deputy and assistant commissioners.

All procedures for handling legal documents shall adhere to DI 405(RM)95 Requests for Legal Assistance.

Legal documents shall be maintained as prescribed in DI 403(RM)86 Coordination of Investigations and Security of Patient and Resident Records Associated with Potential or Actual Litigation or Professional Liability Claims.

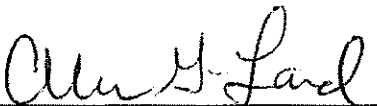
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### REFERENCES

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- §§ 8.01-581.16 and 8.01-581.17 of the Code of Virginia
  - Virginia Tort Claims Act, §§ 8.01-195.1 through 8.01-195.9 of the Code of Virginia.
  - Commonwealth of Virginia risk management plans, § 2.2-1837 of the Code of Virginia.
  - §§ 37.2-304.7 and 37.2-707 of the Code of Virginia.
  - DI 403 (RM) 86 Coordination of Investigations and Security of Patient and Resident Records Associated with Potential or Actual Litigation or Professional Liability Claims.
  - DI 405 (RM) 95 Requests for Legal Assistance.
  - Library of Virginia Records Retention and Disposition Specific Schedule No. 720-001.
  - DI 201 (RTS) 03 Reporting and Investigating Abuse and Neglect of Clients.
  - Virginia Workers' Compensation Act, Title 65.2 of the Code of Virginia.
  - US Department of Labor Occupational and Safety Health Administration Recommended Practices for Safety and Health Programs.
  - Virginia Department of Labor and Industry (DOLI) Virginia Occupational Safety and Health (VOSH) Program (<https://www.osha.gov/stateplans/va>).
  - Safe Medical Devices Act (SMDA), Public Law 102-629 (<https://www.congress.gov/bill/101st-congress/house-bill/3095>).
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Alison G. Land, FACHE  
Commissioner

**EFFECTIVE DATE:** September 4, 2020

**ATTACHMENT:** ☒ **YES**

☐ **NO**

The listed forms can be found on the DBHDS intranet, or they can be obtained from the DBHDS Risk Manager.

**Central Office Forms**

Attachment 1: Departmental form DBHDS 158, Facility Incident Report

Attachment 2: Algorithm for Review and Follow Up of Deaths and Injuries in DBHDS Facilities

Attachment 3: dLCV 48 Hour Faxed Report

### Facility Incident Report

DO NOT PHOTOCOPY / DO NOT FILE IN THE MEDICAL RECORD

<b>Reporting Staff:</b>		<b>Staff Title:</b>	
<b>Shift Supervisor:</b>		<b>Incident Date/Time:</b>	
<b>Circle: Client Employee Visitor Property</b>	<b>MRN:</b>	<b>Name:</b>	
<b>Location of Incident:</b>		<b>Unit:</b>	

Standard/Routine Observation: Check all that apply below

☐ 1:1 ☐ 2:1 ☐ Direct Observation ☐ Q5 ☐ Q15 ☐ Q30 ☐ Q60

☐ Was the Client placed in restraint or seclusion at the time of or as a result of incident? Type:

CHECK ONE CATEGORY LISTED BELOW THAT BEST DESCRIBES THE INCIDENT TYPE

Accidental	Medical	Missing	Treatment/Habilitative
<input type="checkbox"/> By Another Client <input type="checkbox"/> By Other <input type="checkbox"/> By Staff <input type="checkbox"/> Recreational <input type="checkbox"/> To Self <input type="checkbox"/> To Client <input type="checkbox"/> Other	<input type="checkbox"/> Aspiration <input type="checkbox"/> Choking <input type="checkbox"/> Cluster Seizure <input type="checkbox"/> Deterioration in Condition <input type="checkbox"/> Seizure Related Injury <input type="checkbox"/> Status Epilepticus <input type="checkbox"/> Swallowing Problem <input type="checkbox"/> Other	<input type="checkbox"/> Attempted Escape <input type="checkbox"/> Escape <input type="checkbox"/> Off Campus <input type="checkbox"/> On Campus <input type="checkbox"/> Unauthorized Area <input type="checkbox"/> Other	<input type="checkbox"/> Client Site <input type="checkbox"/> Consent Problem <input type="checkbox"/> Delayed <input type="checkbox"/> Deviation Policy & Procedure <input type="checkbox"/> Diagnosis Delayed <input type="checkbox"/> Diagnosis Omitted <input type="checkbox"/> Dietary Problem <input type="checkbox"/> Identification <input type="checkbox"/> Injection/Venipuncture Site <input type="checkbox"/> Meal Refusal (3) <input type="checkbox"/> Monitoring <input type="checkbox"/> Omitted <input type="checkbox"/> Positioning <input type="checkbox"/> Prep Problem <input type="checkbox"/> Refusal <input type="checkbox"/> Repeat Procedure <input type="checkbox"/> Surgery Related <input type="checkbox"/> Technique <input type="checkbox"/> Test Results Delayed <input type="checkbox"/> Test Results Not Addressed <input type="checkbox"/> Test Results Not Received <input type="checkbox"/> Transcription Error <input type="checkbox"/> Transfer/Moving <input type="checkbox"/> Other
<b>Aggressive Act</b>  Against Another Client <input type="checkbox"/> Physical <input type="checkbox"/> Verbal Threat <input type="checkbox"/> Sexual Assault  Against Staff <input type="checkbox"/> Physical <input type="checkbox"/> Verbal Threat <input type="checkbox"/> Sexual Assault  <input type="checkbox"/> By Another Client <input type="checkbox"/> Retaliation/Self Defense <input type="checkbox"/> Against Object <input type="checkbox"/> Use of Weapon <input type="checkbox"/> Other	<b>Medications</b> <input type="checkbox"/> Adverse Drug Reaction <input type="checkbox"/> Dispensing Error - From Pharmacy <input type="checkbox"/> Given Without Order <input type="checkbox"/> Missing Medication <input type="checkbox"/> Improper Order <input type="checkbox"/> Improper Storage <input type="checkbox"/> Omitted <input type="checkbox"/> Refused <input type="checkbox"/> Transcription Error <input type="checkbox"/> Other	<b>Other</b> <input type="checkbox"/> Client/Family Complaint <input type="checkbox"/> Contraband <input type="checkbox"/> Environmental Problem <input type="checkbox"/> Exposure to Elements <input type="checkbox"/> Fire <input type="checkbox"/> Insect Bite <input type="checkbox"/> Pica <input type="checkbox"/> Sexual Encounter <input type="checkbox"/> Inappropriate Sexual Contact <input type="checkbox"/> Inappropriate Touching <input type="checkbox"/> On Admission Injury/Illness <input type="checkbox"/> Special Hospitalization Injury/Illness <input type="checkbox"/> Other	
	<b>Administrative Error</b> <input type="checkbox"/> Wrong Patient <input type="checkbox"/> Wrong Dosage <input type="checkbox"/> Wrong Drug <input type="checkbox"/> Wrong Route <input type="checkbox"/> Wrong Time	<b>Property/Equipment</b> <input type="checkbox"/> Adaptive Clothing <input type="checkbox"/> Damaged <input type="checkbox"/> Destroyed <input type="checkbox"/> Failure/Malfunction <input type="checkbox"/> Missing <input type="checkbox"/> Tampered With <input type="checkbox"/> User Error <input type="checkbox"/> Other	
<b>Fall</b> <input type="checkbox"/> Balance/Coordination/Gait <input type="checkbox"/> Client Reported Fall <input type="checkbox"/> Footwear <input type="checkbox"/> Found On Floor <input type="checkbox"/> Obstacle <input type="checkbox"/> Reclining/Sitting <input type="checkbox"/> Running <input type="checkbox"/> Seizure Related Fall <input type="checkbox"/> Slippery Surface <input type="checkbox"/> Slip/Trip <input type="checkbox"/> Transfer	<b>Unexplained</b> <input type="checkbox"/> Unexplained		<b>Self-Injurious Behavior</b> <input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional <input type="checkbox"/> Suicidality <input type="checkbox"/> Suicide

**Facility Incident Report**

**DO NOT PHOTOCOPY / DO NOT FILE IN THE MEDICAL RECORD**

☐ Other

**DEATH**

☐ Death

**DETAILS**

<b>Type of Injury:</b>				<b>Injured Body Part:</b>	
<b>Describe the Incident:</b>					
<b>Treatment or Interventions:</b>					
<input type="checkbox"/> Was Staff Involved?	<b>Name of Staff:</b>				
<b>Mobility Status</b>	<input type="checkbox"/> Bed Bound	<input type="checkbox"/> Independent	<input type="checkbox"/> Nonambulatory	<input type="checkbox"/> With Assistance (Personal/Mechanical)	
	<input type="checkbox"/> Repeat Faller	<input type="checkbox"/> Fall Precautions			
<b>Was Family/Authorized Rep Contacted?</b>	<b>Contacted By:</b>		<b>Contact Date/Time</b>		
<b>Disposition</b>	<input type="checkbox"/> Emergency Center/Room	<input type="checkbox"/> Hospitalization Required	<input type="checkbox"/> Infirmary Admission		
	<input type="checkbox"/> Medical Assistance Needed	<input type="checkbox"/> Transported Via Rescue Squad			
<b>Was Treatment Provided?</b>					
<b>Where was Medical Treatment Provided?</b>		<b>Who Provided Medical Treatment?</b>		<b>Local Treatment Provider</b>	
<b>Was Hospitalization Required?</b>	<b>How was Client Transported If leaving Facility?</b>			<b>What Hospital?</b>	

<b>Signature:</b>	<b>Date:</b>
<b>Supervisor Signature:</b>	<b>Date:</b>

## Attachment 2

### ALGORITHM FOR REVIEW AND FOLLOW UP OF DEATHS AND INJURIES IN DBHDS FACILITIES

Injury or death occurs/is discovered

T

Is there an allegation of, knowledge of, or reason to believe abuse occurred?

V V

NO YES: Initiate DI 201(RTS)00

T V Investigation

Is the death or injury unexplained?

V V

NO YES

V T

V Is it a suspicious injury or death?

T V V

T NO YES: Initiate DI 201(RTS)00

V V V Investigation What is the risk index assigned to the incident?

V V

No, Low, Medium

V

High: Initiate review (no review if RCA performed)

V

What is the clinical outcome severity level assigned to the incident?

V

V

V

00,

03, 04: Report to

05, 06: RCA Needed?

01,

dLCV

02

V

V 04 RCA Needed?

V Report to dLCV &

V

V

V Conduct mortality review &

T

V

V Contact Medical Examiner

V

V

V

Is there a need for review of the medical care or treatment preceding the death or injury?

V V

NO YES: Seek medical consultation or

V V peer review

V T

Was there any medication anomaly or error preceding the death of injury?

V T

NO YES: Initiate medication review process

" T

Did any equipment fail or was a safety issue identified?

V V

NO YES: Initiate safety committee review

**Attachment 3**  
**dLCV 48 Hour Faxed Report**

<ul style="list-style-type: none"><li>▪ This report is to be used <u>only</u> when the PAIRS system or the internet are unavailable.</li><li>▪ Email the report to dLCV and others on the distribution list when the PAIRS system is not functioning.</li><li>▪ If the PAIRS system is not functioning and the internet is unavailable, fax the report to dLCV and others on the distribution list.</li><li>▪ Faxed or emailed reports to dLCV must be entered into the PAIRS system as soon as possible after the system becomes available.</li></ul>	
<b>Type of Incident or Event:</b>	
<b>Narrative:</b>	
<b>Plan for Follow-up Review:</b>	
<b>Summary Information:</b>	
Full Name of individual receiving services:	
Date and time of incident or event:	
Date and time of discovery:	
Place where death or incident occurred (facility, building, and unit):	

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date